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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/075,105	02/13/2002	Zhijian T. Li	72978	6947
22242 75	7590 07/14/2005		EXAMINER	
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120 SOUTH LA SUITE 1600	A SALLE STREET		ART UNIT	PAPER NUMBER
CHICAGO, IL	60603-3406		1636	
			DATE MAILED: 07/14/2005	5

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.   Applicant(s)   LI ET AL.		$\omega_{\alpha}$	_	
### Examinar   Celine X. Clain Ph.D.   1536		Application No.	Applicant(s)	
Celine X. Clain Ph.D.   1636  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  The MAILING DATE OF THIS COMMUNICATION.  If the period for reply specified above is less than thirty (30) days, a less than 100 MONTHS from the mailing date of this communication.  If the period for reply specified above is less than thirty (30) days, a less than 100 MONTHS from the mailing date of this communication.  If the period for reply specified above is less than thirty (30) days, a less than 100 MONTHS from the mailing date of this communication.  If the period for reply specified above is less than thirty (30) days, a less than 100 MONTHS from the communication.  If the period for reply specified above is less than thirty (30) days, a less than 100 MONTHS from the communication.  If the period for reply specified above is less than thirty (30) days, a less than 100 MONTHS from the communication.  If the period for reply specified above is less than thirty (30) days, a less than 100 MONTHS from the communication.  If the period for reply specified above is less than thirty (30) days, a less than 100 MONTHS from the communication.  If the period for reply specified the communication.  If the period for reply specified the communication is condition of the communication.  If the specified is the specified specified the communication is non-final.  If the specified is the specified specified the specified specified above the specified above the specified above the mailing date of this communication.  If the specified specified above the specified above		10/075,105	LI ET AL.	
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THE MAILING DATE OF THIS COMMUNICATION.  Edencino the many be available under the provision of 3° CPR 1.13(6). In no event, however, may a reply be timely filed after 5X (5) MOSTHIS from the mailing date of the communication.  Followed the communication of the communication of 10° CPR 1.13(6). In no event, however, may a reply be timely filed after 5X (5) MOSTHIS from the mailing date of the communication		ppears on the cover sheet	vith the correspondence address	
This action is FINAL.   2b    This action is non-final.   3   Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.	THE MAILING DATE OF THIS COMMUNICATION  - Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a relif NO period for reply is specified above, the maximum statutory perions Failure to reply within the set or extended period for reply will, by state Any reply received by the Office later than three months after the main three months after the main three months.	1.  1.136(a). In no event, however, may eaply within the statutory minimum of the dwill apply and will expire SIX (6) MO tute, cause the application to become	a reply be timely filed  irty (30) days will be considered timely.  DNTHS from the mailing date of this communication.  ABANDONED (35 U.S.C. § 133).	
2a)  This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-23 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-23 are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Aktachment(e) 1) Notice of Partsperson's Patent Drawing Review (PTO-948) 3) Information Decisiosure Statement(e) (PTO-1449 or PTO/SB/08) 9) Obher:	Status			
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## **DETAILED ACTION**

Claims 1-23 are pending in the application.

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-19, 22 and 23, drawn to a bidirectional promoter complex, a vector comprising said promoter, an eukaryotic cell comprising said vector and a method for producing a polypeptide by using said bidirectional promoter linked to a transgene, classified in class 536, subclass 24.1, class 435, subclass 320.1, 325 and 70.1.
- II. Claims 20 and 21, drawn to a transgenic plant comprising plant cells transfected with a vector comprising a bidirectional promoter, and a plant seed comprising a bidirectional promoter, classified in class 800, subclass 298.

The inventions of Groups I and II are patentably distinct, each from the other for following reasons.

The inventions of Groups I and II are drawn to materially distinct compositions and methods that are not directly related. The bidirectional promoter, vector and host cell of group I are biologically, chemically and functionally distinct from the transgenic plant of group II. The method of group I does not require the plant or seed of group II. Therefore, the invention of group I and II are patentably distinct from each other.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. A search of the subject matter of one invention would not be co-

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extensive with a search of the other invention, and therefore the search would be burdensome.

Each invention is capable of supporting a separate patent.

Groups I comprises of multiple inventions which are the products or methods drawn to different and distinct sequences which do not render obvious each other and thus are patentably distinct. If Group I is elected, applicants must elect a single invention which is the product or method drawn to one specific sequence to which the claims will be restricted. Note, this restriction to examination of a single sequence is due to the now very high and undue burden for examining more than one sequence which is caused by the continued exponential increase of size of the sequence databases to be searched for each sequence, resulting in a corresponding increase in computer search time and examiner time for reviewing the computer search results.

Therefore, the limited resources of the Office no longer permit examination of more than one sequence in an application.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celine X. Qian Ph.D. whose telephone number is 571-272-0777. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel Ph.D. can be reached on 571-272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Celine X Qian Ph.D. Examiner Art Unit 1636

